S.B. CIVIL WRIT PETITION NO.2744/2004

Rameshwar Lal Vs. Lalit Kumar.

Date : 20.4.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. MC Bhoot, for the petitioner.

Mr. Manish Shishodia, for the respondent.

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Heard learned counsel for the parties.

The petitioner is aggrieved against the order dated 26.4.2004 by which the court below closed the evidence of the petitioner/defendant.

It appears from the facts mentioned in the impugned order itself that the defendant produced an affidavit as well as medical certificate evidencing the sickness of the defendant. The above request for adjournment of the case was rejected by the trial court after taking into consideration the order passed by this Court for deciding the suit expeditiously. The trial court took a hypertechnical view in this matter looking to the facts of the case and closed the evidence of the defendant.

In view of the above, this writ petition is allowed, the order of trial court dated 26.4.2004 closing the evidence of the defendant is set aside. However, the

defendant shall have only one opportunity to produce the evidence on one date which may be fixed by the trial court. The trial court will decide the suit expeditiously after giving one opportunity to defendant to lead his evidence.

Record be sent forthwith to the trial court.

(PRAKASH TATIA), J.

S.Phophaliya